

Medical examiner cited over safety

The state Division of Occupational Safety issues 10 violations for unsafe conditions in the workplace after union employees draft a list of 47 complaints.

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BY EDWARD FITZPATRICK
Journal Staff Writer

PROVIDENCE -- The Rhode Island medical examiner's office has been accused of workplace safety violations and its union employees have filed a grievance, describing conditions there as dangerous and disorganized.

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On Nov. 23, the state Division of Occupational Safety cited the medical examiner's office with 10 violations and unsafe conditions.

For example, the office was ordered to use a written respiratory protection program, to use a written exposure control plan for bloodborne pathogens and to use "engineering control measures to prevent atmospheric contamination" in a tissue dumping room.

In response, spokesman Robert J. Marshall Jr. said, "The Department of Health supports a safe and healthy workplace for employees. The department is responding to the inspection report and we have already made progress on many of the items."

The inspection took place after Occupational Safety was alerted by union officials, who also filed a grievance demanding "a safe working environment."

In pursuing the grievance, union officials met with the chief medical examiner and other administrators on Dec. 13, handing them an unsigned 47-item list of employee complaints. The list asserts, in part, that employees lack proper safety equipment and training and that human remains have been improperly stored and identified.

When The Journal inquired about eight of the items on that list, Marshall said, "The Office of the Medical Examiner operates according to the highest level of professional standards and shows the utmost respect for families and the remains of loved ones. These eight items are not credible and [do] not reflect professional knowledge of medico-legal sciences and procedures."

Union spokesman James A. Cenerini said, "We take exception to that characterization. If OSHA [Occupational Safety] found enough evidence to issue a list of violations, then obviously many of the employees' concerns are valid."

The state has been in contract negotiations with the union, Rhode Island Council 94 of the American Federation of State County and Municipal Employees, AFL-CIO. But the safety concerns are "absolutely not" connected to the contract talks, said John J. Tassoni Jr., Council 94 senior business agent. "If you look at the complaints, they have been around awhile and just came to a head," he said.

One item on the list of employee complaints stated that "a full-term baby has been left in a bucket of formaldehyde for three years. The case number is no longer identifiable."

Marshall said the medical examiner's office "deals with the remains of humans from the very young to the very old. Some of these remains involve ongoing/open investigations. All such remains are properly identified, labeled and stored with respect and with routine observance of OME [Office of the Medical Examiner] protocols regarding the retention of evidence until such time as the investigation is closed."

Another item stated that "thousands of pounds of tissue are stored in a room without proper ventilation and proper identification."

Marshall said the medical examiner's office "labels, stores and retains such evidence as is necessary for criminal investigations in accordance with appropriate protocols." He said Occupational Safety inspected storage areas with no violations resulting.

Much of the list focused on workplace safety and sanitation. For example, employees said they lacked proper safety equipment and training to work with formaldehyde, a probable cancer-causing substance. They said masks are not fitted to each employee, and straps are broken so masks have to be tied on.

Marshall said, "Employees handling formaldehyde wear a filter mask and goggles, Tyvex gowns and gloves at all times." After the Occupational Safety inspection, the office is increasing training, and respirators were to be tested last week to ensure they fit employees, he said.

Also, Marshall said, "The atmosphere in the office has been and is being tested and monitored to determine whether additional protection is necessary."

Another item on the employee list stated, "The autopsy table cleaning room does not properly disinfect tables. There is no cleaning agent. It is just hot water. The blood and bodily fluids from the table leak under the door and out onto the floor in the adjacent room."

Marshall said autopsy tables are thoroughly cleaned and disinfected in the examination rooms and merely re-rinsed with water in the "cleaning room." He said, "There was a leak -- water only -- in the area, but it has been repaired and cleaned up."

Some complaints on the list focused on office policies and practices. For example, employees said medical examiner's agents are sometimes asked to perform two autopsies at once, "moving from one table to another, creating a dangerous situation and cross-contamination of materials that can be crucial for trial."

Marshall said that only forensic doctors perform autopsies. "Agents may attend or assist the ME [medical examiner] during an autopsy but most follow appropriate protocols," he said. The medical examiner "only performs one post-mortem at a time. Cross-contamination is not an issue."

Employees also asserted that "procedures change daily on how to handle investigations, autopsies, fielding phone calls and assisting families."

Marshall said staff members have job descriptions that spell out their duties. But, he said, "Cases often require unique handling within general operational guidelines. As a result, there are daily meetings with staff to determine what particular protocols are required for the cases being handled that day."

THE COMPLAINTS first arose on Nov. 2, when a group of medical examiner's employees contacted Diane Rafferty, president of Health Department Local 2870 of Rhode Island Council 94, according to Cenerini, the Council 94 spokesman.

The next day, on Nov. 3, Rafferty filed a one-page "class-action" grievance, asking, "that the state provide a safe working environment in the state medical examiner's workplace."

On Nov. 8, a group of medical examiner's employees met with Council 94 leaders, including Tassoni and interim executive director Dennis Grilli.

Tassoni, who is also a state senator from Smithfield, said the employees raised so many complaints at the meeting that he asked them to send the union a list. He said the 47-item list arrived via e-mail the next day, Nov. 9.

Cenerini said the union wanted a written list so it would be prepared with specific issues during the grievance process.

The e-mail was not signed, and Cenerini said he did not know whether the list was compiled by one employee or a group of workers. He said Council 94 represents three medical examiner's agents, three scene investigators, one senior scene investigator and one senior word processing typist in the medical examiner's office. He said employees did not want to be identified by name.

AT ABOUT the time of the Nov. 8 meeting, Council 94 contacted the Division of Occupational Safety at the state Department of Labor and Training. "We felt the concerns of the workers were substantial enough that we decided to take direct action to protect the health and safety of the workers," Cenerini said.

The Division of Occupational Safety's chief compliance inspector, Scott F. Bateson, interviewed employees and walked through the medical examiner's office at 48 Orms St. And on Nov. 23, Bateson issued a compliance order, citing 10 "alleged violations and unsafe conditions which shall be corrected or eliminated within 30 days."

Bateson said the medical examiner's office could have contested the citations but didn't, so the office was given 30 business days to comply. He said he plans to reinspect the office next month.

"If they don't do anything, we'd issue a 15-day noncompliance order and then you could get into fines," which could run up to \$10,000 per violation, Bateson said. But he said he expects the office to try to comply.

Marshall said, "We are continuing to work with employees in the department and with the Department of Labor and Training on these items. We expect full resolution of the items in the report within an appropriate time frame."

AS PART of the grievance process, union officials routinely meet with supervisors to detail complaints and to see whether issues can be resolved, Cenerini said. So on Dec. 13, Council 94's Tassoni and Rafferty met with Laposata, medical examiner administrative officer George F. Ducharme and Health Department human resources officer Edward D'Arezzo.

Tassoni said he handed Laposata and Ducharme copies of the 47-item list and asked them to respond in writing. He said he told the officials, "We have some major concerns down at that department." And, he said, "They acknowledged there were some problems they needed to correct and they wanted to address the concerns."

The union also asked for a departmental hearing, which would mark the next step in the grievance process, Cenerini said.

"The administration has been very receptive to the concerns raised by the employees," Cenerini said. "And we certainly hope they are as attentive to resolving the concerns quickly."

Shortly after the Dec. 13 meeting, supervisors told Rafferty that employees would be fitted for respirators, Cenerini said. "Management has taken some action to remedy some of the issues," he said.

But, Cenerini added, "We are not going to walk away until the employees receive enough protection in the environment they work in." He said, "We are very concerned about the

health and safety of our workers, and we are also very concerned with providing strong state service to the public."

Tassoni objected to Marshall's statements questioning the credibility of eight of the complaints. He said the employee complaints are bolstered by the Occupational Safety citations, and he said the medical examiner's office has already acknowledged it has problems.

"Maybe this gentleman doesn't know what's going on," Tassoni said of Marshall. "Why isn't she [Laposata] talking for the department?"

On Thursday, Marshall said he had prepared the department's answers in consultation with Laposata, but he said she was not available for an interview at that time. Yesterday was a holiday for state employees.

Tassoni is a member of the legislature's Joint Committee on Health Care Oversight, which has been grilling the Health Department about nursing home problems. "And now this," Tassoni said. "My first thoughts were the department is in disarray. I think things need to be straightened out. It seems like it's one section of the department after another having a problem over there."

Marshall said, "If you look at the testimony on nursing homes, we don't have staff to carry out the responsibilities we have." He said, "There is a real problem of resources there."

As of yesterday, the union had not received a written response to the 47-item list and no departmental hearing date had been set, according to Tassoni, who said he'll be asking about those matters after the holidays.

"I hope we start to do things better for the employees," Tassoni said. "There are not a lot of people who like to do this job -- to do autopsies on a daily basis. So we have to protect them going forward because this is not a job where you want high turnover."

Online at: http://www.projo.com/news/content/projo_20041228_medex28.93f6c.html

Examiner criticized earlier in fatal fire

In July, a consultant faulted the state medical examiner for its response to the fire at The Station nightclub that killed 100 people in West Warwick in February 2003.

09:54 AM EST on Tuesday, December 28, 2004

BY EDWARD FITZPATRICK
Journal Staff Writer

PROVIDENCE -- The medical examiner's office was faulted for workplace conditions four months after a consultant found fault with the office's response to The Station nightclub fire, which claimed 100 lives.

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In July, a Station fire after-action report by a homeland security consultant said that "despite early and repeated warnings that this was an event with significant fatalities, the OME [Office of Medical Examiner] never marshaled the necessary investigative and transportation resources."

The Titan Corp. report praised the medical examiner's office for doing an extraordinary job in completing forensic identifications and performing autopsies on 96 burn victims in less than five days.

But the report also said the chief medical examiner, Dr. Elizabeth A. Laposata, did not show up at the scene of the February 2003 blaze despite several calls from the head of the state Emergency Management Agency and West Warwick's police chief. The report said the one medical examiner's investigator sent to the scene was "clearly overwhelmed."

Titan's vice president said the medical examiner's office had the expertise to handle a big emergency but didn't use it that night. Laposata, a pathologist with 25 years' experience, led more than 200 autopsies after the crash of EgyptAir Flight 990 off Nantucket in 1999.

Laposata has not spoken publicly about the Titan report. When interviewed for the Titan report, she said she didn't remember getting calls from officials asking her to come to the scene. Later, the state health director said Laposata told her she didn't go to scene so she could concentrate on organizing her office to deal with the dead as quickly as possible so that families could be notified.

After the Titan report came out, an investigator in the medical examiner's office confirmed that most of the bodies had no tags or numbers when they were taken to the morgue from the fire scene. Typically, an investigator would make a grid and write on

tags to indicate where in the grid bodies were found. The location of bodies is important in determining the cause of death and prosecuting any crime. The club owners and a band manager have been charged with involuntary manslaughter.

Earlier this month, union officials handed Laposata a list of 47 employee complaints, and one item stated: "During the Station fire, bodies were received at the office with no identification tags on them to indicate location found within the building."

Another of the 47 complaints stated that staff at the National Violent Death Reporting System "felt a child-abuse case was overlooked during the Station fire and Dr. Laposata refused to investigate."

Health Department spokesman Robert J. Marshall said, "We know of no case that fits this description." He said the medical examiner's office is familiar with every child death in the state and works closely with the National Violent Death Reporting System to evaluate child deaths.

Online at: http://www.projo.com/news/content/projo_20041228_medside.93cc8.html

AT THE ASSEMBLY - Bills target medical examiner's office; [All Edition]

EDWARD FITZPATRICK *Journal Staff Writer*. *The Providence Journal*. Providence, R.I.: Jan 5, 2005. pg. B.01

Abstract (Document Summary)

Sen. [Maryellen Goodwin], D-Providence, drafted a bill that would require accreditation after reading about workplace safety violations at the medical examiner's office. On Nov. 23, the state Division of Occupational Safety cited the office for 10 violations, calling for, among other things, a written respiratory protection program and a written exposure control plan for blood-borne pathogens.

The state's chief medical examiner, Dr. Elizabeth A. Laposata, wasn't available for an interview yesterday. But state Health Department spokesman Robert J. Marshall Jr. quoted Laposata as saying, "Accreditation may be a useful option to pursue in the future."

Goodwin first introduced those two bills in 1999, but she said Laposata objected to the proposed "mandates" and asked for additional staff. So, Goodwin said, she withdrew the bills and helped to get an additional full-time equivalent position for the medical examiner's office.

Full Text (975 words)

Copyright Providence Journal/Evening Bulletin Jan 5, 2005

* Sen. Maryellen Goodwin's legislation would require the office to gain accreditation and require timely performance of its duties.

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PROVIDENCE - A state senator is calling for the Rhode Island medical examiner's office to regain the accreditation that lapsed nearly 14 years ago.

Sen. Maryellen Goodwin, D-Providence, drafted a bill that would require accreditation after reading about workplace safety violations at the medical examiner's office. On Nov. 23, the state Division of Occupational Safety cited the office for 10 violations, calling for, among other things, a written respiratory protection program and a written exposure control plan for blood-borne pathogens.

Goodwin said she was "horrified" by the safety violations and by complaints from employees in the medical examiner's office. "Accreditation will make it a safer place to work and a place where a family's mind can be at rest knowing that their loved one is in an office that is professional," she said.

The state's chief medical examiner, Dr. Elizabeth A. Laposata, wasn't available for an interview yesterday. But state Health Department spokesman Robert J. Marshall Jr. quoted Laposata as saying, "Accreditation may be a useful option to pursue in the future."

Also, Marshall said, "The medical examiner's office operates according to the highest levels of professional standards and shows the utmost respect for families and the remains of loved ones."

In all, 42 medical examiner offices in 24 states are accredited by the National Association of Medical Examiners -- ranging from the Los Angeles County Chief Medical Examiner/Coroner Office, in California, to the Suffolk County Medical Examiner Office, in New York.

But none of the accredited offices are in New England, and Rhode Island's accreditation lapsed on Feb. 8, 1991, according to the national association's Web site. Laposata became Rhode Island's chief medical examiner in 1994.

Accreditation means that "the office or system provides an adequate environment for a medical examiner

in which to practice his or her profession and provides reasonable assurances that the office or system well serves its jurisdiction," according to the association's accreditation manual.

As part of the accreditation process, a board-certified forensic pathologist inspects a medical examiner's office and fills out a 28- page checklist, which asks questions about autopsies, death certificates and toxicology. The checklist includes a section on safety, which asks, among other things, "Is a blood-borne pathogen control program in place?"

Accreditation is conferred for a period of five years.

This year's General Assembly session began yesterday, and Goodwin said she plans to introduce the accreditation legislation within the next few days.

A draft of the bill states, "The office of state medical examiners shall maintain accreditation by the National Association of Medical Examiners or other national accrediting organization in the field of forensic medicine and pathology." The act would take effect on July 1, 2006.

Goodwin -- who lives above the Russell J. Boyle & Son Funeral Home on Smith Street, where her father has been a funeral director for 55 years -- said she also plans to reintroduce a pair of bills that would set deadlines for action by the medical examiner's office.

One bill would require the medical examiner's office to "release the deceased body or remains to the relatives or representatives of the deceased within 48 hours after receiving the body." The other bill would require that the medical examiner's office "complete all reports relative to pending autopsies or causes of death within 90 days."

"Things are a disaster down there," Goodwin said, in discussing the release of bodies from the medical examiner's office. "Families are tormented because of delay in the release of their loved ones. I think it's unnecessary. It can take five or six days."

Also, Goodwin said, "Families are waiting up to a year to get the cause of death. It ties up life insurance. And families can't go on."

Goodwin first introduced those two bills in 1999, but she said Laposata objected to the proposed "mandates" and asked for additional staff. So, Goodwin said, she withdrew the bills and helped to get an additional full-time equivalent position for the medical examiner's office.

"That was the solution [Laposata] came up with," Goodwin said. "And things were better for a while." But, she said, "it's gone back to where it was, or worse."

So now, Goodwin said, "we are going to try mandates."

Marshall said Laposata warned that, "Placing artificial deadlines on determining cause and manner of death would jeopardize law enforcement and other medico-legal proceedings."

The timeliness of processing bodies and determining the causes and manners of deaths has improved greatly since 1999, so Laposata "is eager to help clear up the misperception that things are worse," Marshall said.

The medical examiner's office conducts about 700 autopsies and cause-of-death investigations per year -- including 672 last year, Marshall said.

Autopsies -- which include physical exams and specimen collection -- are usually completed and bodies are released within one or two working days, while bodies are kept a day longer for homicides, Marshall said.

The cause and manner of death is usually determined within six months, although some complicated cases require extensive testing and analysis, he said.

Marshall said the deadlines proposed by Goodwin could result in the problems they're intended to resolve.

"Families could lose benefits due to incomplete processing, it could jeopardize law enforcement investigations, and it could result in incorrect cause and manner of death determinations," Marshall said. "Murderers could go free and innocent people could be charged from rushing through it and coming up with an incorrect result."

Goodwin said, "I totally disagree. I want results, not excuses. And I am tired of excuses from that particular office. I look forward to having Dr. Laposata appear at hearings on this particular legislation where she, or anyone else from her office, can come and answer a whole host of questions."

* GOODWIN - PHOTO



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